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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,414	09/22/2003	Udo Thielking	A-8726.RNFMP/cat	4387

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EXAMINER

LHYMN, EUGENE

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,414

Applicant(s)

THIELKING, UDO

Examiner

Eugene Lhymn

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/20/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, with respect to claims 1 and 5, it is unclear if the "latching region" and "two vertical, parallel ring legs" are the same entity. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8, and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Eckerle (US 3949663). With respect to claim 1, Eckerle discloses the following:

- A receptacle that contains a garbage bag (Col 2, Lines 17-22)
- At least one ring placed onto an upper edge of the receptacle in the upper edge region (Fig. 1)

- The ring secured in a latching manner via two vertical, parallel ring legs, the outer ring leg being on the outside of the receptacle and the inner ring leg being on the inside of the receptacle (Fig. 4)

With respect to claim 2, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Eckerle, which is capable of being used in the intended manner, i.e., as an inner bucket for a trash container (see M.P.E.P. 2111).

With respect to claim 3, Eckerle discloses the liner being concealed by the ring, wherein since the ring is used to clamp the liner (Col 2, Lines 17-22), it is inherent that the ring will conceal the liner thereof.

With respect to claim 4, Eckerle discloses a hoop being attached to the ring (Fig. 1).

With respect to claim 5, Eckerle discloses the bin having at least one latching region that connects in a form-fitting manner to the upper section of the receptacle, as shown in Fig. 4.

With respect to claim 6, Eckerle discloses at least one latching region comprising a tongue that is resiliently elastic, as shown in Fig. 4, wherein the outer and inner legs of the ring are elastically resilient tongues.

With respect to claim 8, Eckerle discloses a step formed on the receptacle at a distance below the upper edge, and a latching region snapping over the step, as shown in Fig. 4.

With respect to claim 12, Ecklerle discloses the outer and inner ring legs being connected by a web, as shown in Fig. 4, wherein the horizontal portion connecting the outer and inner legs is the web.

With respect to claim 13, Eckerle discloses the ring having a web-like, approximately horizontal supporting region, as shown in Fig. 4, wherein the horizontal portion connecting the outer and inner legs is the web.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eckerle in view of (EP 0563567 A1). With respect to claim 7, Ecklerle discloses the claimed invention except for incisions being laterally next to a resiliently elastic tongue.

However, Ref. (EP 0563567 A1) teaches a ring support for a container having incisions along it's periphery, thereby providing secure joining means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the

ring of Eckerle to have incisions as taught by Ref. (EP 0563567 A1) so as to provide secure joining means.

7. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckerle in view of Plainevaux et al. (US 1963675). With respect to claim 9, Eckerle discloses the claimed invention except for the step having an undercut located radially further inward. However, Plainevaux et al. teaches a ring closure system wherein the receptacle has a step which has an undercut, as shown in Fig. 1, item 5. Having an undercut as such provides a secure means of engagement. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add an undercut to the step of Eckerle as taught by Plainevaux et al. so as to provide a secure means of engagement.

With respect to claim 10, Eckerle discloses the claimed invention except for the latching region snapping over the step and into the undercut section. However, Plainevaux et al. teaches a ring closure system wherein the latching system snaps over the step and into an undercut section, as shown in Fig. 1. Having an undercut as such provides a secure means of engagement. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add an undercut to the step of Eckerle as taught by Plainevaux et al. so as to provide a secure means of engagement.

Allowable Subject Matter

8. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

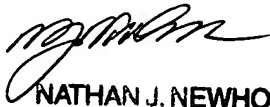
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References cited are analogous to the instance invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lhymn whose telephone number is 571-272-8712. The examiner can normally be reached on MTWT 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER